

RECEIPT NUMBER

531996-

ORIGINAL 8

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TEVYA GRACE URQUHART,
Plaintiff,

v

CITY OF DETROIT DETECTIVE
SERGEANT DERRICK ANDERSON,
badge no. S-1262; SERGEANT
CAROLYN NICHOLS, badge no.
S-831; OFFICER TERRENCE SIMS,
badge no. 3711; OFFICER PATRICK
JONES, badge no. 689; OFFICER
ALAN COPELAND, badge no. 534;
and OFFICER MAURICE McCLURE,
jointly and severally,
Defendants.

JUDGE : Feikens, John
DECK : S. Division Civil Deck
DATE : 09/29/2005 @ 12:49:15
CASE NUMBER : 2:05CV73725
CMP TEVYA GRACE URQUHART V. CITY
OF DETROIT, ET AL, SI TAM

MAGISTRATE JUDGE R. STEVEN WIRALAN

THOMAS M. LOEB (P25913)
Attorney for Plaintiff
32000 Northwestern Hwy, Ste 170
Farmington Hills, MI 48334-1507
(248) 851-2020

**COMPLAINT FOR DAMAGES,
DECLARATORY RELIEF AND JURY DEMAND**

Plaintiff, by her attorney, Thomas M. Loeb, complains against the above-named
Defendants and in support states as follows:

Preliminary Statement

1. This is an action for declaratory relief and money damages brought by Plaintiff,
a citizen and resident of the State of Michigan, against Defendants City of

Detroit Detective Sergeant Derrick Anderson, badge no. S-1262; Sergeant Carolyn Nichols, badge no. S-831; Officer Terrence Sims, badge no. 3711; Officer Patrick Jones, badge no. 689; Officer Alan Copeland, badge no. 534; and Officer Maurice McClure for damages arising out of conduct which occurred in 2002 when these Defendants caused Plaintiff to be arrested, maliciously prosecuted, tried, and convicted on false criminal charges without probable cause or even a reasonable suspicion that she had committed a crime.

Plaintiff seeks a declaratory judgment that these officers, by causing her to be prosecuted without legal probable cause did violate her right to be free from an unreasonable arrest or seizure of her person and deprived her of her liberty without due process of law, as guaranteed under the Constitution and laws of the United States.

Jurisdiction and Venue

2. This court has jurisdiction over these claims pursuant to 28 USC §§ 1331, 1343, 2201 and 2202.
3. Venue is properly laid in this court pursuant to 28 USC §1391(b), as the Defendants reside in and the claims arose in the Eastern District of Michigan.

Plaintiff and Defendants

4. That at all times relevant to this complaint, the Plaintiff was a resident of the City of Livonia, Wayne County, Michigan. She currently resides in the City of Flint, Genesee County, Michigan.

5. That at all times relevant to this complaint, Defendants City of Detroit Detective Sergeant Derrick Anderson, badge no. S-1262; Sergeant Carolyn Nichols, badge no. S-831; Officer Terrence Sims, badge no. 3711; Officer Patrick Jones, badge no. 689; Officer Alan Copeland, badge no. 534; and Officer Maurice McClure were acting within the scope of their employment and under color of law as police officers for the City of Detroit.
6. That each Defendant officer is being sued in his or her individual capacity.
7. That the incident complained of in this lawsuit occurred in the City of Detroit, Wayne County, Michigan, with events that began on Thursday March 7, 2002.

Facts

8. On Thursday March 7, 2002 Plaintiff worked for Sprint PCS at a store located at 19191 Telegraph Road, Detroit, Michigan.
9. On this day at approximately 8:00 a.m., she and two other co-employees were confronted by two male suspects who told them that they had a gun and were there to take money from the store's safe.
10. The two co-employees were forced to lay face down on the floor while Plaintiff was ordered to open the safe.
11. Fearing for her life, she did so.
12. One or both of the male suspects left the scene with, upon information and belief, one or more bags containing money.
13. After the perpetrators left the scene, Plaintiff called the police.

14. One or more of the above-named Defendant officers arrived and conducted an investigation.
15. At the store, Defendant Sergeant Carolyn Nichols, assigned to the armed robbery unit, interviewed Plaintiff personally.
16. Defendant Nichols testified against Plaintiff in the criminal case.
17. At the preliminary examination held on Friday July 19, 2002, Defendant Nichols stated that she first thought that Plaintiff was a victim, but later became suspicious with Plaintiff's statement because it sounded "the same" as the other two employees' statements.
18. At the preliminary hearing, Defendant Nichols could point to no other circumstance that caused her to suspect that Plaintiff took part in this crime.
19. That one or more of the Defendant officers conspired to and did cause Plaintiff to be charged with the crimes of Larceny By Conversion Over \$20,000, contrary to MCL 750.362(2)(a) and Filing A False Police Report Of A Felony, contrary to MCL 750.411a(1)(b).
20. That Plaintiff was convicted after a jury trial in the Wayne County Circuit Court, Judge Daniel P. Ryan presiding, on Thursday October 10, 2002.
21. That Plaintiff was on this day remanded to the Wayne County Jail to await sentencing.
22. On October 30, 2002 Plaintiff was sentenced to a term of imprisonment, which caused her to be sent to the Michigan Department of Corrections and housed at the Scott Women's Correctional Facility.

23. On Friday December 20, 2002 Plaintiff was re-sentenced to three years probation, with the first five months in jail confinement, with credit for 73 days already served.
24. On Tuesday May 4, 2004 the State of Michigan Court of Appeals reversed and discharged Plaintiff (then a defendant-appellant) from all charges. In its opinion the Court noted that there was simply no evidence beyond speculation that Plaintiff either committed larceny by conversion or filed a false felony report (see *People v. Tevya G. Urquhart*, No. 246001, Decided May 4, 2004 per curiam)(unpublished).
25. On Friday August 20, 2004 Wayne County Circuit Court Judge Daniel P. Ryan vacated the order of conviction and sentence referred to more fully above.
26. On Tuesday November 23, 2004 Wayne County Circuit Court Judge Daniel P. Ryan, in the case of *People v Urquhart*, Wayne County Circuit Court No. 02-009124, issued an order of dismissal with prejudice.
27. A reasonably competent police officer would know that before he or she can charge a citizen with a felony, there must be competent and credible evidence to support it.
28. That as a result of their unlawful, malicious, reckless, and indifferent acts or omissions, the Defendant officers both alone and in concert, conspired to and acted under color of law but contrary to law and did deprive Plaintiff of her rights, privileges, or immunities secured under the Constitution and laws of the United States and 42 USC §1983, including her right to be free from an

unreasonable seizure of her person, as guaranteed by Amendments IV and XIV of the United States Constitution, by arresting her and prosecuting her without probable cause to believe that she had committed a crime.

29. That as a direct and proximate result of the conduct of Defendants, referred to more fully above, Plaintiff suffers and continues to suffer loss of liberty; incarceration; imprisonment; embarrassment; indignation; anxiety; mental anguish; emotional distress; humiliation; outrage; shame; fear; separation from her only child (a son, who was but 45 days old when Plaintiff was remanded to jail); and denial of constitutional rights.

THEREFORE, for all the above reasons, Plaintiff demands judgment against Defendants jointly and severally for whatever amount the jury may determine for compensatory damages. Further, she demands judgments against each Defendant officer individually for punitive demands in whatever amount the jury may determine, plus costs, interest, and actual attorney fees pursuant to 42 USC §1988.

PLAINTIFF DEMANDS A JURY TRIAL.

Dated: September 26, 2005

Respectfully submitted,



Thomas M. Loeb (P25913)
Attorney for Plaintiff

CIVIL COVER SHEET

COUNTY IN WHICH THIS ACTION AROSE: Wayne

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

Tevya Grace Urquhart

DEFENDANTS

City of Detroit Detective Sergeant Derrick Anderson; Sergeant Carolyn Nichols; Officer Terrence Sims; Officer Patrick Jones; Officer Alan Copeland, and Officer Maurice McClure

(b) County of Residence of First Listed

Genesee

County of Residence of First Listed

Wayne

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

(c) Attorney's (Firm Name, Address, and Telephone Number)

Thomas M. Loeb (P25913), 32000 Northwestern Hwy, Ste 170, Farmington Hills, Michigan, 48334, (248) 851-2020

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item 111)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

- Citizen of This State ☐ PLA ☐ DEF ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ PLA ☐ DEF ☐ 4 ☐ 4
- Citizen of Another ☐ 2 ☐ 2 Incorporated and Principal of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel And Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21: 861 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Com mod ties/Exchange <input type="checkbox"/> 875 Customer Challenge 12 LISC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 445 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multi district Litigation ☐ 7 Appeal to District Judge from Magistrate

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 USC Section 1983

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

\$ DEMAND

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) (See IF ANY instructions):

JUDGE Bernard A. Friedman

DOCKET NUMBER

05-71199

DATE

9/26/05

SIGNATURE OF ATTORNEY OF RECORD

Thomas M. Loeb

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☒ Yes
☐ No

If yes, give the following information:

Court: U.S. District Court - Eastern District of Michigan

Case No.: 05-71199

Judge: Bernard A. Friedman

Notes :
